

## REMARKS

Claims 1-14, 15-31, and 39-45 are pending in the present application. Claims 32-38 are withdrawn from consideration. In the Office Action dated July 6, 2005, the Examiner allowed claims 15-31 and 39-45. Claims 3, 8, 9, 11, 13 and 14 are objected to, while claims 1, 2, 4-7, 10 and 12 are rejected. The Examiner is thanked for his indication of allowable subject matter in the present application. Applicant nevertheless disagrees with the claim rejections based upon the cited art and desires to clarify various distinguishing features of the present invention. Reconsideration of the present application is therefore earnestly requested in light of the present amendments and following remarks.

## CLAIM OBJECTIONS

Claims 6 and 7 have been amended to correct the informalities cited by the Examiner. Claim 21 is also amended to correct various informalities identified by the Examiner. In particular, the structural relationship between the elements has been provided as requested. Claims 22 and 23 have been amended to provide consistency with the elements in amended claim 21. Claim 25 is amended to establish a consistent antecedent basis with Claim 24. Claims 39 and 40 have been amended to delete “-like”, as requested by the Examiner.

Applicant respectfully asserts that the foregoing amendments are fully responsive to the Examiner’s objections.

## CLAIM REJECTIONS UNDER 35 U.S.C. § 102(B)

Claims 1, 2, 4, 6, 7, 10, 11, and 12 are rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 3,898,718 to Eubank (“Eubank”). Amended claim 1 now recites containers and particularly recites a water ballast as part of the claimed burial system. Applicant notes that Eubank discloses casings that “...are sealed at their bottom end 19, as well as longitudinally thereof, to prevent the influx of water from the soil” (column 2, lines 7-9). Applicant also notes

that; "The casings 17 may be maintained dry by keeping a subatmospheric pressure of nitrogen or the like therewithin." (col. 4, lines 50-53). Applicant therefore maintains that the Eubank reference fails to disclose or to fairly suggest the presence of a water ballast system operable to remove groundwater from the burial system.

Claim 1, as amended, recites in pertinent part: "A burial system...including...a ballast control positioned within the tub and in fluid communication with groundwater within the ground and operable to alter a fluid volume within the tub resulting from the infiltration of the groundwater into the tub...". The Eubank reference fails to disclose this. Accordingly, claim 1 is allowable over the cited art. Claims depending from claim 1 are also allowable based upon the allowable form of the base claim, and further in view of the additional limitations recited in the dependent claims.

#### CLAIM REJECTIONS UNDER 35 U.S.C. § 103(A)


Claim 5 is rejected under 35 U.S.C. § 103(a) as unpatentable over Eubank. Applicant respectfully asserts that the foregoing amendment to claim 1 also renders claim 5 allowable, since the Eubank reference fails to disclose, or suggest in any motivated sense, a water ballast system that is operable to remove groundwater from the tub. Applicant further maintains that the Eubank reference *teaches away* by disclosing a nitrogen pressurization system to remove groundwater from the casing.

### CONCLUSIONS

All pending claims in the present application are therefore now allowable. Prompt consideration and a Notice of Allowance are therefore earnestly requested. If the Examiner has any further questions that may be handled telephonically, the Examiner is invited to contact the Applicant's agent at the telephone number listed below.

Respectfully submitted,

BLACK LOWE & GRAHAM<sup>PLLC</sup>




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### EXPRESS MAIL CERTIFICATE

I hereby certify that this communication is being deposited with the United States Postal Service via Express Mail No. **EV509173280US** under 37 C.F.R. § 1.10 on the date indicated below addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

10/6/2005

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